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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 SHARON ASHLEY,

9 Plaintiff,

10 v.

11 PHYSICIANS & DENTISTS CREDIT  
12 BUREAU, INC., d/b/a P&D Collection  
13 Services, et al.

14 Defendants.

Case No. C10-996-JPD

ORDER GRANTING PLAINTIFF'S  
MOTION FOR AWARD OF  
ATTORNEY'S FEES IN PART AND  
DENYING MOTION FOR EXTENSION  
OF TIME TO REOPEN CASE

15  
16 I. INTRODUCTION AND SUMMARY CONCLUSION

17 Plaintiff Sharon Ashley moves the Court for an award of attorney's fees of \$6,250 from  
18 defendants Physicians & Dentists Credit Bureau ("P&D"). Dkt. 18. Specifically, plaintiff  
19 contends that she is entitled to \$6,250 in reasonable attorney's fees as the prevailing party  
20 under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692k, based upon  
21 defendants' acquisition of a default judgment against plaintiff without providing proper notice.  
22 Dkt. 1. Plaintiff has also filed a motion for extension of time to reopen the case. Dkt. 17. The  
23 Court, having received and reviewed all of the plaintiff's and defendants' submissions, and all  
24 attached declarations, hereby ORDERS that plaintiff's motion for attorney's fees, Dkt. 18, is  
25 GRANTED IN PART, and plaintiff's motion for extension of time to reopen the case, Dkt. 17,  
26 is DENIED as moot.

1 II. JURISDICTION

2 The parties have consented to having this matter heard by the undersigned Magistrate  
3 Judge pursuant to 28 U.S.C. § 636(c). *See* Dkt. 12. Federal question jurisdiction exists  
4 pursuant to 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(b)(2). Plaintiff is a  
5 resident of Whatcom County, Washington. Defendants are a Washington debt collection  
6 corporation and its governing persons, and all of the alleged events occurred in the State of  
7 Washington. Dkt. 1.

8 III. FACTS AND PROCEDURAL HISTORY

9 Plaintiff initiated the underlying 15 U.S.C. § 1692 civil action against defendants for  
10 engaging in abusive, deceptive and unfair practices in violation of the FDCPA on June 16,  
11 2010. Dkt. 1. Specifically, plaintiff argues that defendants, who submitted plaintiff's unpaid  
12 medical bill into debt collection, wrongfully obtained a default judgment against plaintiff on  
13 June 12, 2009, without providing them proper notice. *Id.* at 5. Defendants filed an answer to  
14 plaintiff's complaint on August 20, 2010. Dkt. 5.

15 On June 10, 2011, plaintiff's counsel notified the Court that the parties had reached a  
16 settlement agreement. Dkt. 16. Because "it appears that no issue remains for the Court's  
17 determination, and to avoid incurring jury expenses the parties would be liable to repay under  
18 CR 39(d), the Court dismissed the claim with prejudice and without costs to either party on  
19 June 10, 2011. *Id.* Plaintiff filed a motion for extension of time to reopen the case on July 11,  
20 2011 because plaintiff's counsel could not complete a motion for attorney's fees on time due to  
21 illness. Dkt. 17.

22 Three days later, on July 14, 2011, plaintiff filed the motion for attorney's fees. Dkt.  
23 18. In support of the motion, plaintiff's counsel filed declarations by James Sturdevant,  
24 plaintiff's counsel, and William G. Knudsen, who appears to work with Mr. Sturdevant on a  
25 regular basis and consistently refers clients to him. Dkt. 19 (Sturdevant Decl.); Dkt. 19, Att. 1  
26 (Knudsen Decl.). On July 25, 2011, defendants responded to plaintiff's motion by arguing that

1 the requested attorney's fees were excessive and would result in a gross windfall to plaintiff's  
2 counsel. Dkt. 20.

#### 3 IV. DISCUSSION

##### 4 A. Motion for Extension of Time to Reopen Case

5 As previously mentioned, plaintiff filed a motion for extension of time to reopen the  
6 case on July 11, 2011 because plaintiff's counsel was unable to file a motion for attorney's fees  
7 due to illness. Dkt. 17. Defendants did not file a response opposing the motion. On July 14,  
8 2011, plaintiff filed a motion for attorney's fees as the prevailing party in the underlying 15  
9 U.S.C. § 1692 action. Dkt. 18. Defendants filed a response objecting to plaintiff's motion for  
10 attorney's fees on July 25, 2011. Dkt. 20. Because this Court need not reopen the case to  
11 address plaintiff's motion, the Court DENIES as moot plaintiff's motion for extension of time  
12 to reopen the case.

##### 13 B. Plaintiff is Entitled to Reasonable Attorney's Fees

14 As mentioned above, plaintiff moves for an award of reasonable attorney's fees  
15 pursuant to 15 U.S.C. § 1692k(a)(3) because plaintiff was the prevailing party in the  
16 underlying 15 U.S.C. § 1692 action. Dkt. 18. Specifically, 15 U.S.C. § 1692k(a)(3) states as  
17 follows:

18 Except as otherwise provided by this section, any debt collector  
19 who fails with any provision of this subchapter with respect to  
20 any person is liable to such person in an amount equal to the sum  
21 of...(3) in the case of any successful action to enforce the  
22 foregoing liability, the costs of the action, together with a  
23 reasonable attorney's fee as determined by the court.

24 15 U.S.C. § 1692k(a)(3). Thus, defendants are statutorily obligated to pay plaintiff reasonable  
25 attorney's fees pursuant to 15 U.S.C. § 1692.  
26

1           B.       Standard for Determining Plaintiff's Reasonable Attorney's Fees Award

2           The amount of attorney's fees to be awarded is within the discretion of the district  
3 court. *Twentieth Century Fox Film Corp. v. Goldwyn*, 328 F.2d 190, 221 (9th Cir. 1964). The  
4 Court considers its overall sense of the suit and uses reasonable estimates in determining  
5 attorney's fees. *See Fox v. Vice*, 131 S.Ct. 2205, 2210 (2011) ("the essential goal in shifting  
6 fees is to do rough justice, not to achieve auditing perfection.").

7           In calculating reasonable attorney's fees for a prevailing party, the Court also looks to  
8 the "lodestar method," which calculates the number of hours reasonably expended on the  
9 litigation multiplied by a reasonable hourly rate. *See Hensley v. Eckerhart*, 461 U.S. 424, 433  
10 (1983). The lodestar method also takes into account "the prevailing market rates in the  
11 relevant community," and "roughly approximates the fee that the prevailing party would have  
12 received if he or she had been representing a paying client who was billed by the hour in a  
13 comparable case. *Perdue v. Kenny A. ex rel. Winn*, 130 S.Ct. 1662, 1672 (citing *Blum v.*  
14 *Stenson*, 465 U.S. 886, 895 (1984)). As the Supreme Court noted, the lodestar method is both  
15 readily administrable and objective, and thus "cabins the discretion of trial judges, permits  
16 meaningful judicial review, and produces reasonably predictable results." *Id.* *See also*  
17 *Burlington v. Dague*, 505 U.S. 557, 566 (1992); *Buckhannon Board & Care Home, Inc. v.*  
18 *West Virginia Dept. of Health and Human Resources*, 532 U.S. 598, 609 (2001); *Hensley*, 461  
19 U.S. at 433. The Court has the authority to make across-the-board percentage cuts, as well as  
20 the responsibility of "trimming the fat from a fee application." *Gates v. Deukmejian*, 987 F.2d  
21 1392, 1397 (9th Cir. 1992).

22           C.       Reasonableness of Plaintiff's Requested Attorney's Fees

23           Plaintiff asserts that an award of \$6,250 in attorney's fees is reasonable because the rate  
24 of \$250 per hour as charged by Mr. Sturdevant is the prevailing market rate for this type of  
25 representation. Dkt. 18 at 5. In addition, plaintiff claims that Mr. Sturdevant expended 25  
26 hours during the course of litigation, which is a reasonable amount of time spent on litigation.

1 *Id.* Mr. Knudsen testified in his declaration that the “hourly rate for attorneys in Bellingham,  
2 Washington with Mr. Sturdevant’s level of experience and expertise ranges from \$225 to \$260  
3 per hour.” Dkt. 19, Att. 1 at 2 (Knudsen Decl.).

4 By contrast, defendants contend that plaintiff’s counsel’s requested attorney’s fees  
5 amount is excessive, and would result in a gross windfall to plaintiff’s counsel. Dkt. 20 at 2.  
6 Specifically, defendants argue that: (1) plaintiff’s counsel failed to claim any basis for the  
7 reasonableness of his alleged hourly rate because his supporting declaration contains  
8 unsubstantiated analysis as to the prevailing market rate; (2) plaintiff’s counsel is a regular filer  
9 of FDCPA claims, and thus his motions, briefs, reports, and discovery are neither unique to  
10 this case nor do they require extensive attorney time to complete; (3) plaintiff’s counsel’s fee  
11 declarations and time records do not distinguish between time spent as an attorney and clerical  
12 time; (4) plaintiff’s counsel spent an inordinate amount of time preparing documents that were  
13 largely boilerplate and required only the changing of names and some select facts; and (5)  
14 plaintiff’s counsel’s time records show exaggerated, redundant, and duplicative time spent on  
15 matters related to the litigation in this case. Dkt. 20. Additionally, defendants claim that  
16 plaintiff’s counsel was encouraged by the FDCPA statute to “jack-up their fees in order to  
17 maximize their own recovery.” *Id.* at 14-15. Finally, defendants request that this Court  
18 impose sanctions on plaintiff’s counsel pursuant to FRCP 11(b) because plaintiff’s counsel’s  
19 fee declaration is “outrageous for the quality and quantity of work required and performed.”  
20 *Id.* at 7.

21 1. *The Hourly Rate Charged by Plaintiff’s Counsel*

22 As previously mentioned, reasonable rates are calculated according to the prevailing  
23 market rates in the relevant legal community. *Blum*, 465 U.S. at 895. The Supreme Court has  
24 articulated the following standard for determining the reasonableness of hourly rates:

25 In seeking some basis for a standard, courts properly have  
26 required prevailing attorneys to justify the reasonableness of the

1 requested rate or rates. To inform and assist the court in the  
2 exercise of its discretion, the burden is on the fee applicant to  
3 produce satisfactory evidence – in addition to the attorney’s own  
4 affidavits – that the requested rates are in line with those  
5 prevailing in the community for similar services by lawyers of  
6 reasonably comparable skill, experience, and reputation. A rate  
7 determined in this way is normally deemed to be reasonable, and  
8 is referred to – for convenience – as the prevailing market rate.

9 *Id.* at 896, n.11.

10 Here, as described in plaintiff’s supporting declaration, plaintiff’s counsel has been  
11 admitted to practice law in the State of Washington since 1978, practices law primarily in  
12 Bellingham, Washington, and has filed 16 FDCPA actions in this district. Dkt 19 at 1  
13 (Sturdevant Decl.). Plaintiff’s supporting declaration also contains a declaration by Mr.  
14 Knudsen indicating that plaintiff’s counsel’s hourly rate ranges from \$225 to \$260, and that  
15 plaintiff’s counsel’s hourly rate as of February 2010 was \$225, which was at a lower range of  
16 hourly rates for attorneys at his level and experience in Bellingham, Washington. Dkt. 19, Att.  
17 1 at 2 (Knudsen Decl.).<sup>1</sup>

18 Plaintiff’s counsel claims that he charged a \$250 hourly rate in this case “because of the  
19 use of existing documents” from other related motions for attorney’s fees in FDCPA actions  
20 filed at the same time in this district.<sup>2</sup> Dkt. 19 at 4 (Sturdevant Decl.). This \$250 rate  
21 represents an increase from plaintiff’s counsel’s \$225 hourly rate as charged in similar FDCPA  
22 claims on behalf of different defendants. Indeed, plaintiff’s counsel charged a \$225 hourly rate  
23 in at least one of those cases that both parties agree contained such similar legal and factual

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24 <sup>1</sup> As plaintiff’s counsel acknowledges, Mr. Knudsen’s supporting declaration was  
25 originally filed in support of a motion for attorney’s fees in a different case. Dkt. 19 at 1  
26 (Sturdevant Decl.); Dkt. 19, Att. 1. (Knudsen Decl.).

<sup>2</sup> Including this case, there were three FDCPA actions filed in this Court against  
defendants by plaintiffs who were all represented by plaintiff’s counsel. In all three cases, the  
plaintiffs moved for attorney’s fees, and in one case, the Court awarded attorney’s fees in an  
amount significantly reduced from plaintiffs’ original request. *See* Case No. C10-78-BAT  
(W.D. Wash. 2011). It appears that both parties have filed the same documents in all three  
cases with only slight modifications.

1 bases that many of the reports, motions, and briefs as used in that case were used in this case  
2 with only slight modifications. *See* Case No. C10-78-BAT (W.D. Wash. 2011). *See also* Dkt.  
3 19 at 3-5 (Sturdevant Decl.); Dkt. 20 at 11-13.

4 Mr. Sturdevant testified in his declaration that his fee has recently increased from \$225  
5 to \$250. Dkt. 19 at 1 (Sturdevant Decl.). However, Mr. Sturdevant has not provided any  
6 supporting evidence or justification for the increase of his hourly rate for the Court to consider  
7 with respect to this motion. Additionally, because plaintiff's counsel conceded that he was  
8 able to spend "considerably less" time on this case due to the use of only slightly modified,  
9 pre-existing documents from other cases, plaintiff's counsel's increased \$250 hourly rate in  
10 this case is unreasonable. Dkt. 19 at 4 (Sturdevant Decl.). Accordingly, based on plaintiff's  
11 motion and supporting declaration, the Court finds that an hourly rate of \$225 is reasonable in  
12 this case. As a result, plaintiff's counsel's attorney's fees award shall be calculated as the  
13 product of this \$225 hourly rate multiplied by the reasonable number of hours plaintiff's  
14 counsel expended on litigation in this matter.

15 2. *The Hours Spent by Plaintiff's Counsel*

16 Plaintiff's counsel "bears the burden of documenting the hours expended in litigation  
17 and must submit evidence in support of those hours." *Hensley v. Eckerhart*, 461 U.S. 424, 433  
18 (1983). The court may reduce the hours where documentation is inadequate, if the case was  
19 overstaffed and hours are duplicative, or if the hours expended are deemed excessive or  
20 otherwise unnecessary. *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210 (9th Cir. 1986),  
21 *amended on other grounds*, 808 F.2d 1373 (9th Cir. 1987).

22 Although plaintiff's counsel claims that he expended 25 hours during the course of this  
23 litigation, plaintiff submits three time records indicating different amounts of time spent  
24 working on plaintiff's case. Dkt. 19, Att. 3 (Sturdevant Decl.). Plaintiff's counsel's first time  
25 record appears to contain time that is not included in plaintiff's counsel's other time records,  
26 and shows a total of 0.6 hours spent "discussing lawsuit [and] retainer," and conferencing with

1 plaintiff. *Id.*, Att. 3 at 1 (Sturdevant Decl.). The second time record, which appears to be a  
2 billing statement sent directly to plaintiff, shows a total of 20.10 hours. *Id.*, Att. 3 at 5  
3 (Sturdevant Decl.). Finally, the third time record shows a total of 20 hours, and appears to  
4 omit from the second time record 0.10 hours spent calling the plaintiff to discuss her physical  
5 condition and reschedule a meeting. *Id.*, Att. 3 at 2, 6 (Sturdevant Decl.). Based on these time  
6 records, the Court finds that plaintiff's counsel's first and third time records together appear to  
7 accurately depict the work completed by plaintiff's counsel. Accordingly, the Court combines  
8 the two above-mentioned time records and arrives at an initial total of 20.6 hours.

9 Defendants contend that plaintiff's counsel spent an unreasonable total of 6.0 hours  
10 completing the complaint because "it is virtually identical to that drafted and filed by counsel  
11 in the Walker case (for which counsel has already been compensated)." Dkt. 20 at 12.  
12 Plaintiff's counsel's time entries referring to the complaint describe the time as spent (1)  
13 "reviewing and revising [the] complaint for factual accuracy," (2) making sure that "the  
14 allegations on both the FDCPA, WCAA and WCPA claims pass," (3) completing legal  
15 research "on elements on WCPA claim," and (4) revising the complaint. Dkt. 19, Att. 3 at 6  
16 (Sturdevant Decl.). However, as defendants argue, the Court notes the complaint in this case  
17 and the complaint filed in Case No. C10-1060-JPD (W.D. Wash. 2011) are remarkably similar.  
18 Thus, the Court shall deduct 3.0 hours from the total amount of hours spent on the complaint.

19 Additionally, defendants argue that plaintiff's counsel spent an unreasonable 4.8 hours  
20 "drafting the Initial CR 26 Disclosures." Dkt. 20 at 13. However, plaintiff's time entries  
21 referring to CR 26 disclosures sufficiently describe the work completed, and include time spent  
22 on other work related to this case. Specifically, plaintiff's counsel's time entries reflect (1) a  
23 conference with plaintiff on CR 26 disclosures, (2) legal research of expert testimony issues for  
24 CR 26 disclosure, and (3) review of the documents associated with the CR 26 disclosures.  
25 Dkt. 19, Att. 3 at 7 (Sturdevant Decl.). Moreover, plaintiff's counsel's time entries for work  
26 completed on the CR 26 disclosures include time spent working on a joint status report and



1 calling plaintiff about medical personnel. *Id.* Accordingly, the Court will not deduct any time  
2 with respect to work completed by plaintiff's counsel on the CR 26 disclosures.

3 Finally, defendants fail to specify for the Court what portions of time spent on the  
4 current motion for attorney's fees by plaintiff's counsel are unreasonable. Dkt. 20 at 13.  
5 Indeed, plaintiff only requests attorney's fees for 0.6 hours of work, which is an amount of  
6 time that appears to reflect the similarities between the instant motion and previous motions  
7 filed in similar cases. Dkt. 19, Att. 3 at 8 (Sturdevant Decl.).

8 Accordingly, the Court multiplies the \$225 hourly rate as determined above by the 17.6  
9 hours for work completed in this case, arriving at a total of \$3,960 in attorney's fees. This  
10 amount is consistent with the above-mentioned lodestar method, and is a reasonable amount  
11 based on prevailing market rates and the amount of work completed in this case.

12 V. CONCLUSION

13 For all of the foregoing reasons, the Court hereby ORDERS as follows:

14 (1) Plaintiff's motion for attorney's fees, Dkt. 18, is GRANTED IN PART.

15 (2) Attorney's fees are awarded in favor of plaintiff and against defendants in the  
16 amount of \$3,960.

17 (3) Plaintiff's motion for extension of time to reopen the case, Dkt. 17, is DENIED  
18 as moot.

19 (4) The Clerk of the Court is directed to send a copy of this Order to counsel for  
20 both parties.

21 DATED this 16th day of August, 2011.

22   
23 \_\_\_\_\_  
24 JAMES P. DONOHUE  
25 United States Magistrate Judge  
26